

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FOR AND NOTICE
BY BLACK HILLS FIBERCOM L.L.C., RAPID)	OF HEARING
CITY, SOUTH DAKOTA, AGAINST U S WEST)	
COMMUNICATIONS, INC. REGARDING)	CT00-055
COMPETITIVE PRICING AND PROMOTION)	
PRACTICES)	

On March 14, 2000, Black Hills FiberCom, L.L.C. (FiberCom) filed a complaint with the South Dakota Public Utilities Commission (Commission). The complaint was forwarded to U S WEST Communications, Inc. (U S WEST) on March 15, 2000, to attempt to resolve the complaint informally. The informal attempt to resolve the complaint was not successful within the requested time frame. The complaint was formally docketed on March 29, 2000. FiberCom is of the information and belief that as early as the fall of 1999, U S WEST conducted, and continues to conduct, an unlawful pricing and promotion campaign within the local exchange area serviced concurrently by U S WEST and FiberCom. On August 16, 2000, U S WEST (now Qwest), filed a Motion to Dismiss or Alternatively for Summary Judgment.

On March 29, 2000, the complaint was faxed to U S WEST. Pursuant to ARSD 20:10:01:09, U S WEST was notified that it must satisfy the complaint or file an answer in writing with the Commission by April 18, 2000. On April 17, 2000, the Commission received U S WEST's Answer to Complaint. On August 16, 2000, Qwest filed a Motion to Dismiss or Alternatively for Summary Judgment and a Brief in Support of Motion to Dismiss. FiberCom filed a Response on September 20, 2000. Qwest filed a Reply Brief on September 25, 2000. By order dated September 29, 2000, the Commission denied Qwest's Motion to Dismiss or Alternatively for Summary Judgment.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-12 through 49-31-12.5, inclusive, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-84 through 49-31-86.2, inclusive.

A hearing shall be held on January 18, 2001, beginning at 9:00 A.M., in the Chamber of Commerce Meeting Room, 800 West Dakota Avenue, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether Qwest committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether Qwest committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether Qwest committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 30th day of October, 2000.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner